

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9762 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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NAVINBHAI JAGJIVANDAS MISTRI

Versus

STATE OF GUJARAT

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Appearance:

MR AJ PATEL for Petitioners

MR.T.H.SOMPURA,LD.GOV'T. PLEADER for Respondents No. 1  
2, and 4

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 17/01/97

ORAL JUDGEMENT

Ld. Counsel Mr. A.J. Patel for the petitioners  
seeks the leave to delete Respondent no.3. Leave is  
granted . Accordingly the said respondent stands deleted  
from the present proceedings.

Rule. Id.Govt. Counsel Mr. T.H.Sompura waives service of the rule for rest of the Respondents.

The dispute centers round to a piece of land bearing Survey No. 286 situated at Village Sama, under the Vadodara Taluka of the Vadodara District, admeasuring Hectare 0-81-95 sq.meters. The above said land belonged to two ladies, namely Sitaben and Shivben as the heirs & legal representatives of deceased Mangalbhai Nathabhai. The case taken up by the Government was that, the above said land was a new tenure land and that could not have been permitted to be utilised for the purpose of running a saw mill. It is not in dispute that the petitioners are using the above said land for the purpose of running saw mill.

There has been a lengthy debate as to the formula under which the fine shall have to be paid by the petitioners. But the orders pronounced by Collector, Vadodara, way back in year 1989, to be precise on December 21, 1989, put a quietus to this debate. It has been said that, for the regularisation, the petitioners have to pay the amount under the stipulated formula, that is 2 1/2 times of the market value along with certain other penal amounts. These orders passed in year 1989 have become final.

There was an endeavour on the part of learned counsel for the petitioners to urge that, under certain Resolutions of the Government, looking to the community to which the petitioners belong, the situation would be different. Later on learned counsel Mr. Patel gives up this contention. For all the practical purposes therefore the concentration shall have to be on the orders pronounced by the Collector, Vadodara, on December 21, 1989. It stands concluded that the amount should be equivalent to 2 1/2 times of the market value of the land.

The question which arises for consideration is as to whether the market price in question should be relating to the year 1989 or the present market price. This question is left open to be decided by the Collector, Vadodara, to whom I propose to retransmit the matter for fresh consideration. There is a contention coming from learned Govt. Counsel that, all this exercise could be done only, if the petitioners have got a valid permission from VUDA to utilise this land for the industrial purpose. It is not in dispute that the land is being utilised for the light industrial purpose.

Therefore in the remanded proceedings, Collector Vadodara shall have to decide this aspect also. In other words, the exercise of fixing of the price as said above could be done by Collector, Vadodara, only if the petitioners are entitled to use the land in question for the light industrial purpose. All these questions are left open to be decided by Collector, Vadodara.

Under the orders of this Court, the petitioners have deposited an amount of Rs. Three lacs. This amount shall stand transferred to Collector, Vadodara. The Registry is requested to take appropriate steps to see that this amount is transferred accordingly, forthwith. The petitioners are directed to deposit a further amount of Rs. Three lacs within a period of one month. The whole exercise shall be commenced only after the above said deposit of Rs. Three lacs is made before Collector, Vadodara. The remanded proceedings shall be completed by Collector, Vadodara, as expeditiously as possible and within three months from the date of deposit of the additional amount. Rule is made absolute accordingly.

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